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MAY 24 2004

In re Application of
Wang, et al.
Application No. 10/687,471
Filed: October 15, 2003
Attorney Docket No. 06401.00417
For: COLD-WATER SOLUBLE
EXTRUDED STARCH PRODUCT

OFFICE OF PETITIONS

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.181, filed March 19, 2004, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed January 26, 2004 and accordation of an October 15, 2003 filing date to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 15, 2003. On January 26, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on October 15, 2003 because no drawing was present, as is required by 35 USC 113. In response to the Notice, petitioners timely filed; *inter alia*, the present petition.

It is noted that the above-identified application contains a process claim. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains a process claim. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed January 26, 2004 was mailed in error and is hereby withdrawn. The petition is **granted**. Pursuant to petitioners' authorization, deposit account no. 19-0733 will be credited the \$130.00 petition fee.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **October 15, 2003**. It is noted that the instant application is a divisional application of application no. 09/863,928 and the entire contents of the prior application was incorporated by reference in the instant application upon initial filing. Therefore, after additional processing, the application will be forwarded to Technology Center 1700 where the examiner of record will consider the preliminary amendment and the drawings, filed March 19, 2004, for new matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.



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